

19 FEB 2004



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

#5

Mr. William M. Lee, Jr.  
Barnes & Thornburg  
P.O. Box 2786  
Chicago, Illinois 60690-2786

In re Application of:	:	
GREENE, et al.	:	DECISION ON PETITION
Application No. : 09/445,917	:	
PCT No.: PCT/GB98/01721	:	UNDER 37 CFR 1.181
Int. Filing Date: 12 June 1998	:	
Priority Date: 14 June 1997	:	
Atty Docket No.: 476-1861	:	
For: MULTIMEDIA COMMUNICATION IN A	:	
TELECOMMUNICATION NETWORK	:	

This decision is in response to applicant's "Request to Withdraw Notification of Abandonment" filed 20 February 2001, 07 September 2001 and 04 December 2003 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.181. No petition fees are required.

**BACKGROUND**

On 12 June 1998, applicant filed international application PCT/GB98/01721, which claimed priority of an earlier application filed 14 June 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 December 1998. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 14 December 1999.

On 14 December 1999, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1).

On 15 February 2000, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. In addition, applicant was advised of the need to pay the surcharge for providing an oath or declaration of the inventor later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 01 February 2001, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the

NOTIFICATION OF MISSING REQUIREMENTS mailed 15 February 2000 within the time period set therein and that above-identified application was abandoned as to the United States. On 20 February 2001, applicant filed a petition to withdraw the holding of abandonment.

On 07 September 2001, applicant filed a second petition to withdraw the holding of abandonment.

### DISCUSSION

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt. The postcard identifies the application by inventor and docket number. The receipt identifies the application number as "09/445,917." Among the items listed on the receipt is "4. Submission of three declarations with Certificate of Mailing." The receipt is stamped "17 JUL PM 3:42 OPR/FINANCE" across its face. In addition, a review of the fees records for the present application finds that the referenced check was deposited on 17 July 2000. Thus, it is clear that applicant filed an executed declaration on 17 July 2000. For the reasons stated above, it is proper to grant applicant's petition at this time and accept the copy of the declaration filed 20 February 2001 as a substitute for the declaration originally filed 17 July 2000.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 17 July 2000.

### CONCLUSION

Applicant's petition under 37 CFR 1.181 is GRANTED.

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 01 February 2001 is hereby VACATED.

This application will be given an international application filing date of 12 June 1998 and a date of 17 July 2000 under 35 U.S.C. 371(c)(1), (c)(2) and (c4). This application is being returned to the DO/EO/US for processing in accordance with this decision.



Derek A. Putonen  
Attorney Advisor  
Office of PCT Legal Administration  
Tel: (703) 305-0130  
Fax: (703) 308-6459